

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

I. CLAIM STATUS & AMENDMENTS

Claims 11-14 were pending in this application when last examined and stand rejected.

Claims 11-14 are amended to better conform to US practice and English grammar form. The revisions are non-substantive and they are not intended to narrow the scope of protection. No new matter has been added.

II. PRIOR ART REJECTIONS

In item 3 on page 2 of the Office Action, claims 11-14 were rejected under 35 USC §102(b) as allegedly anticipated by MORGAN et al.

In item 7 on page 3 of the Action, claims 11, 13 and 14 were rejected under 35 USC 103(a) as allegedly obvious over MORGAN et al. in view of LEVY et al.

These rejections are respectfully traversed and will be addressed together below.

Starting with MORGAN et al., at the bottom of page 2 of the Action, it was indicated that "MORGAN et al. discloses the preparation of N-(1-methyl-2-(3,4-dimethoxyphenyl)-ethyl)-hydroxylamine, which is embraced by the claimed invention." The

Office pointed to compound 6 at page 2598, column 2, paragraphs 3-4, and page 2599, column 1, of MORGAN et al., and indicated that the compound anticipates the claim when R¹ and R² are both methoxy, R³ is H, R⁴ is methyl, R⁵ is H and R⁶ is H.

Applicants respectfully disagree with the Office's position.

Kindly note that independent claim 11 contains proviso clauses excluding various compounds from the scope of the invention. See, for instance, the "with provisos that" clause in line 16 of claim 11 and the language thereafter. See also "the compound cannot be" clause in the 16th line from the end of claim 11 and the language thereafter.

It is respectfully submitted that the hydroxylamino derivatives in MORGAN et al., that were relied upon by the Office in making the rejection, namely compounds 6 and 9, are specifically disclaimed in independent claim 11. See, the end of claim 11 and also page 6, lines 11 and 24, respectively, of the disclosure. Compound 6 in the reference does not fall within the general formula since it has a benzyl group on the nitrogen atom.

For this reason, MORGAN et al. fails to disclose or suggest each and every element of the claimed invention. Thus, present invention of independent claim 11 is novel and unobvious over MORGAN et al.

Claims 12-14 either directly or indirectly depend on claim 11. Accordingly, these claims are novel and unobvious over

MORGAN et al. for the same reasons set forth above with respect to claim 11 due to their dependency on claim 11.

Therefore the above-noted 102(b) anticipation rejection over MORGAN et al. is untenable and should be withdrawn.

Turning now to the allegedly overlapping compounds disclosed in LEVY et al. On page 4 of the Action, it was indicated that LEVY et al. "substantially discloses the claimed invention of formula (I), which are used as pharmaceutical compositions." The Office pointed to column 1, line 50, to column 2, line 2, the examples and the claims of LEVY et al.

In reply, it is respectfully noted that the compounds relied upon by the Office in LEVY et al. are also disclaimed by the proviso clauses in claim 11. For this reason, LEVY et al. fails to disclose or suggest each and every element of the claimed invention. Consequently, the combination of MORGAN et al. and LEVY et al. cannot render obvious the claimed invention. Thus, claims 11, 13 and 14 are novel and unobvious over the combination of MORGAN et al. and LEVY et al.

Further, it is noted that, as discussed in "prior art" section in the instant specification on page 3, lines 5-17, LEVY et al. never disclose or suggest that such compounds have any central nervous system (CNS) activity, such that they could be used to treat central and peripheral nervous system disorders as recited in claim 14. As such, it is respectfully submitted that one of ordinary skill in the art, upon reading the cited

references, would have not been motivated to modify the structure of the compounds in MORGAN et al. and LEVY et al. to successfully arrive at the compounds of the present invention having the disclosed pharmacological activity. There would have been no reasonable expectation of success in doing so due to the lack of any teaching of such activity in the cited references. For this additional reason, it is respectfully submitted that LEVY et al. fails to disclose or suggest each and every element of the claimed invention.

Again, it is respectfully submitted that the claims exclude the compounds relied upon by the Office in MORGAN et al. and LEVY et al.

Therefore, the above-noted prior art rejections are untenable and should be withdrawn.

III. CONCLUSION

In view of the foregoing remarks, it is respectfully submitted that the present application is in condition for allowance and an early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment

to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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